elect under which party designation he desired his name to appear; that in case of his failure to so elect, the secretary of state should place the name under the designation of the party first filing a certificate of nomination, in which latter case the words "no nomination" should be printed in the spaces so left vacant. In an application for mandamus against the secretary of state, *Held*, that the statute was unconstitutional. *Murphy* v. *Curry* (1902),—Cal.—,70 Pac. Rep. 461.

This statute, in the judgment of the court, "treated political parties and nominees unjustly and partially, denying the equal protection of the laws, and aiming an unwarranted blow at a vital principal of our republican form of government." Substantially similar statutes have been sustained in Michigan, Wisconsin and Ohio. *Todd* v. *Commissioners* (1895), 104 Mich. 474, 62 N. W. 564, 64 N. W. 496, 29 L. R. A. 330; *State* v. *Anderson* (1898) 100 Wis. 523, 76 N. W. 482, 42 L. R. A. 239; *State* v. *Bode* (1896), 55 Ohio St. 224, 45 N. E. 195, 34 L. R. A. 498. The only difference between the statute of these states and the one involved in the principal case seems to be that the latter required the words "no nomination" to be printed in the spaces left blank, thus involving the telling of an untruth, while in the former this was simply ignored. The California court, however, reject this possible ground of distinction, and take issue squarely with the conclusions reached in the three cases and with the weight of authority. The Wisconsin court refused to recognize party fealty and sentiment as subjects of constitutional care, and held that in case of the nomination of the same candidate by two parties, it is to be supposed that there is but one platform of principles, and that, the voter having the opportunity to vote for the candidate of his choice, there is no unjust discrimination. The principal case goes farther and holds that rights of parties and their nominees are involved. It argues that a party has a right to nominate whom it sees fit, and the nominee a corresponding right to have his name appear on the ballot as the nominee of that party. That by adopting the Australian ballot system, and assuming to convey to the voter, through its agency, the information that the candidate is the nominee of at least one party, the legislature recognized the existence of political parties, and that from that moment it became the duty of the state to be as exact and fair to political parties and their nominees as to the voters.

All the above statutes were attempted regulations of the elective franchise. That such regulations must be reasonable, uniform and impartial, see Cooley on Constitutional Limitations, 6th edition, 753. It is in the application of the rule that the courts differ. The constitutionality of a statute like that in the principal case cannot be tested by the fact that the voter must make more than one mark. *Todd* v. *Commissioners*, supra. Any such inequality arises not from the statute, but by reason of inequality in the persons of the voters. *State* v. *Bode*, supra.

EQUITABLE INTERESTS—ASSIGNABILITY.—The residue of an estate was given by will in trust "to pay over the net income thereof to my daughter Mary during her life * * * at such times and in such sums as my trustees may deem judicious," with remainder to the University of Virginia. The income thus given to the daughter amounted to about $15,000 a year; and the daughter executed a deed purporting to convey to the University of Virginia all the surplus over $5,000 a year. On petition by the trustees for instructions as to the validity of the assignment; *Held*, valid. *Endicott* v. *University of Virginia* (1902), — Mass. — , 65 N. E. Rep. 37.

The court said: "The whole income is given to the daughter. The provision that it shall be paid in such sums and at such times as the trustees deem judicious in no way cuts down or limits the absoluteness of the

requirement that sooner or later it shall be paid. Her right during her life is unqualified and without alternative. Therefore, on general principles her life estate is alienable unless words can be found which tie it up. There are no such words."

EVIDENCE—X-RAY PICTURES.—The plaintiff suffered personal injury from a defective sidewalk. The plaintiff testified that her foot and ankle which were injured by the accident were previously in a sound and healthy condition, and that the injury had produced a permanent or at least prolonged disability. Some medical men testified that one of the consequences of the injury was, or might probably be, a calcareous deposit in the tissues of the foot, and that they had examined the foot of the plaintiff by means of an apparatus for making or taking what are called "X-ray pictures," which disclosed the presence of such a deposit, and that in their opinion, the deposit was the result of the injury. An objection was raised that such a picture was secondary evidence. *Held*, that the X-ray photograph was admissible in evidence. *City of Geneva* v. *Burnett* (1902), — Neb. — , 91 N W. Rep. 275.

That a court will take judicial cognizance of the art of photography and that a photograph is admissible in evidence, when appropriate, is the general rule and supported by the weight of authority: I GREENLEAF ON EVIDENCE, Sec. 439 h. The photograph must be verified by some one who has knowledge of the object represented and can testify that the photograph represents his idea of the object. *Ruloff* v. *People*, 45 N. Y. 213; *Udderzook* v. *Commonwealth*, 76 Penn. St. 340; *Leidlein* v. *Meyer*, 95 Michigan 586. The use of pictures in evidence taken by the Roentgen rays involves slightly different principles, since the operator will usually not have perceived the object, with his ordinary organs of vision, and cannot testify that the picture corresponds to the results of his own observation. In the lower courts there seems to have been divergent rulings as to the admissibility of the X-ray picture in evidence. However, the general rule seems to be that it is a proper means of proof. In all cases, its admissibility rests in the discretion of the trial judge: I GREENLEAF ON EVIDENCE, Sec. 439 h.; *Bruce* v. *Beall*, 99 Tenn. 303, 41 S. W. 445; *Mauch* v. *City of Hartford*, 112 Wis. 40, 87 N. W. 816; *Jameson* v. *Weld*, 93 Me. 345; *Carey* v. *Hubardston*, 172 Mass. 106. *Miller* v. *Dumon*, 24 Wash. 648, 64 Pac. 804; *De Forge* v. *Railroad Co.*, 178 Mass. 59, 59 N. E. 669; *Tish* v. *Welker*, 7 Ohio N. P. 472.

FRAUD-MISREPRESENTATION BY CASHIER OF BANK.—A Kentucky insurance company could not begin business till all its capital was paid in and not till the insurance commissioner should issue a certificate certifying that it had a fully paid in capital. The company deposited part of the capital with a certain bank, and notes, upon which the company was liable as guarantor or indorsor with stock attached as security, were discounted for the remainder of the necessary capital at the same bank and proceeds credited to the company. Then the cashier of the bank certified to the insurance commissioner, that the required amount was on deposit with the bank and that it was deposited *as the fully paid in capital* of the company. H., who contemplated purchasing stock in the company, inquired of the bank as to the paid up capital of the company, and was told that the bank had certified to the insurance commissioner that the capital was fully paid in; then he asked the insurance commissioner, who showed him the certificate of the cashier. Then H. bought shares in the insurance company and now brings an action of deceit against the bank, the insurance company having become insolvent within a year without ever having had a fully paid in capital. *Held*, that if H. was known to the bank as a person disposed to buy such shares and was referred